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20 INTERNATIONAL LIMITED, CROWDSTAR INC.,  
21 CROWDSTAR NETWORK, LLC, ELECTRONIC  
22 ARTS INC. d/b/a EA INTERACTIVE d/b/a PLAYFISH  
23 d/b/a POGO GAMES, FUNZIO, INC., FUNZIO USA,  
24 INC., ZYNGA INC., and DIGITAL CHOCOLATE, INC.

25 UNITED STATES DISTRICT COURT

26 SOUTHERN DISTRICT OF CALIFORNIA

27 GAMETEK LLC,

28 Plaintiff,

v.

FACEBOOK, INC.; FACEBOOK  
OPERATIONS, LLC; FACEBOOK  
PAYMENTS, INC.; FACEBOOK SERVICES,  
INC.; 6WAVES LLC f/k/a LOLAPPS INC.  
d/b/a 6WAVES LOLAPPS d/b/a SIX  
WAVES; 6WAVES TECHNOLOGIES, LLC  
f/k/a LOLAPPS INC. d/b/a 6WAVES  
LOLAPPS d/b/a SIX WAVES; BIG VIKING  
GAMES INC. f/k/a TALL TREE GAMES;  
BUFFALO STUDIOS LLC; CIE GAMES,  
INC.; CROWDSTAR INTERNATIONAL  
LIMITED; CROWDSTAR INC.;  
CROWDSTAR NETWORK, LLC;  
ELECTRONIC ARTS INC. d/b/a EA  
INTERACTIVE d/b/a PLAYFISH d/b/a  
POGO GAMES; FUNZIO, INC.; FUNZIO  
USA, INC.; ROCKYOU, INC.; SIX WAVES  
INC. f/k/a LOLAPPS INC. d/b/a 6WAVES  
LOLAPPS d/b/a SIX WAVES; THEBROTH

CASE NO. 12cv0501-BEN-RBB

**DEFENDANTS CIE GAMES, CROWDSTAR,  
ELECTRONIC ARTS, FUNZIO, ZYNGA  
AND DIGITAL CHOCOLATE'S NOTICE  
OF MOTION AND MOTION TO DISMISS  
UNDER 35 U.S.C. SECTION § 299 AND FED.  
R. CIV. P. 21**

**[Memorandum of Points and Authorities Filed  
Concurrently Herewith]**

HEARING:

Date: July 16, 2012  
Time: 10:30 a.m.  
Judge: Hon. Roger T. Benitez  
Courtroom: 3

1 INC.; WOOGA GMBH; ZYNGA INC.; and  
2 DIGITAL CHOCOLATE, INC.  
3

Defendants.

4 **PLEASE TAKE NOTICE** that on July 16, 2012, at 10:30 a.m., or as soon thereafter as the  
5 matter may be heard, in Courtroom 3 of the above-titled court, located at 940 Front Street, San Diego,  
6 CA 92101, Defendants Cie Games, Inc., Crowdstar International Limited, Crowdstar Inc., Crowdstar  
7 Network, LLC, Electronic Arts Inc. d/b/a EA Interactive d/b/a Playfish d/b/a Pogo Games, Funzio,  
8 Inc., Funzio USA, Inc., Zynga Inc., and Digital Chocolate, Inc. (collectively, “the Moving Parties”)  
9 will and do move the Court, pursuant to Federal Rule of Civil Procedure 21, to dismiss the Moving  
10 Parties on the following grounds:

11 The Moving Parties are misjoined under 35 U.S.C. § 299 because Plaintiff Gametek LLC has  
12 not alleged sufficient facts to support joinder. The Moving Parties are separate companies with  
13 independently accused games, the alleged infringements do not arise out of the same transaction or  
14 occurrence or have common questions of fact, and Plaintiff has not alleged facts otherwise. Thus,  
15 because the Moving Parties are joined in this action solely based on alleged infringement of the same  
16 patent, Section 299 specifically prohibits joinder in this case, and the Federal Rule of Civil Procedure  
17 21 permits dismissal for misjoinder.

18 This Motion to Dismiss is based on this Notice of Motion and Motion; the Memorandum of  
19 Points and Authorities filed concurrently herewith; and such further evidence and argument as the  
20 Court may permit or require at or prior to the time of the hearing on this Motion.

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1 Dated: June 18, 2012

2 WAYNE BARSKY  
3 JASON LO  
4 JORDAN BEKIER  
5 CASSANDRA GAEDT  
6 GIBSON, DUNN & CRUTCHER LLP

7 By: /s/ Jason Lo

8 Jason Lo

9 Attorneys for CIE GAMES, INC., CROWDSTAR  
10 INTERNATIONAL LIMITED, CROWDSTAR INC.,  
11 CROWDSTAR NETWORK, LLC, ELECTRONIC  
12 ARTS INC. d/b/a EA INTERACTIVE d/b/a PLAYFISH  
13 d/b/a POGO GAMES, FUNZIO, INC., FUNZIO USA,  
14 INC., ZYNGA INC., and DIGITAL CHOCOLATE,  
15 INC.

**CERTIFICATE OF SERVICE**

I, the undersigned, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Los Angeles, California 90071.

On June 18, 2012, I caused the following document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filings to all known counsel of record:

**DEFENDANTS CIE GAMES, ELECTRONIC ARTS, CROWDSTAR, FUNZIO,  
ZYNGA AND DIGITAL CHOCOLATE'S NOTICE OF MOTION AND  
MOTION TO DISMISS UNDER 35 U.S.C. SECTION § 299 AND FED. R. CIV.**

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Executed on June 18, 2012, at Los Angeles, California.

/s/ Jason Lo  
Jason Lo